

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2705

Introduced by Assembly Member Williams

February 21, 2014

An act to amend Sections 87102, 87151, 87415, 87424, 87482.5, 87482.6, 87482.8, 87482.9, 87601, 87604, 87860, 87861, 87862, 87863, 87864, 87867, 87880, 87881, 87882, 87883, 87884, and 87885 of, to amend the headings of Article 9 (commencing with Section 87860) of, and Article 10 (commencing with Section 87880) of, Chapter 3 of Part 51 of Division 7 of Title 3 of, and to repeal Section 87482.4 of, the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2705, as amended, Williams. Community colleges: faculty.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Under existing law, community college districts are authorized, among other things, to maintain and operate campuses, employ faculty and other employees, and provide instruction to students. Existing law provides for several classifications of community college faculty, including full-time, contract, and part-time faculty.

This bill would revise numerous statutes related to community college faculty to change references from ~~“full-time”~~ and ~~“part-time”~~ faculty to ~~“regular”~~ faculty, ~~“contract”~~ faculty, and ~~“associate”~~ faculty. The bill would also make nonsubstantive changes in these statutes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The terms “part-time faculty” and “temporary faculty” do
4 not adequately describe the qualifications, contributions, and
5 importance of the community college faculty to whom those terms
6 have been applied.

7 (2) “Associate faculty” is a more accurate and useful term with
8 which to refer to these educators, who are so integral to the
9 successful functioning of community colleges in this state.

10 (3) There are inconsistencies in the Education Code with regard
11 to the definitions of community college faculty, and the Legislature
12 seeks to standardize the terms “~~regular faculty~~,” “~~contract faculty~~,”
13 “*full-time faculty*” and “associate faculty.”

14 (b) It is the intent of the Legislature, in enacting this act, to act
15 consistently with, and in no way to compromise or limit, the
16 holding of the Court of Appeals in the case of *Cervisi v.*
17 *Unemployment Insurance Appeals Board* (1989), 208 Cal.App.3d
18 635.

19 SEC. 2. Section 87102 of the Education Code is amended to
20 read:

21 87102. (a) As a condition for the receipt of funds pursuant to
22 Section 87107, the governing board of community college district
23 that opts to participate under the article shall periodically submit
24 to the board of governors an affirmation of compliance with this
25 article. Each participating district’s equal employment opportunity
26 program shall ensure participation in, and commitment to, the
27 program by district personnel. Each participating district’s equal
28 employment opportunity plan shall include steps that the district
29 will take in eliminating improper discrimination or preferences in
30 its hiring and employment practices. Each plan shall address how
31 the district will make progress in achieving the ratio of ~~regular and~~
32 ~~contract faculty~~ *full-time* to associate faculty hiring, as indicated
33 in Section 87482.6, while still ensuring equal employment
34 opportunity.

35 (b) Each participating district’s equal employment opportunity
36 plan is a public record within the meaning of the California Public
37 Records Act (Chapter 3.5 (commencing with Section 6250) of
38 Division 7 of Title 1 of the Government Code).

1 SEC. 3. Section 87151 of the Education Code is amended to
2 read:

3 87151. The Board of Governors of the California Community
4 Colleges shall annually allocate funds appropriated for the purposes
5 of this article to each community college district whose chief
6 executive officer has submitted to the chancellor an affidavit that
7 includes:

8 (a) A statement that each campus within the community college
9 district has an advisory committee, composed of administrators,
10 ~~regular, contract, and associate~~ faculty, and staff representatives,
11 which has assisted in the assessment of the faculty and staff
12 development needs and in the design of the plan to meet those
13 needs.

14 (b) A campus human development resources plan has been
15 completed for the current and subsequent fiscal years.

16 (c) A report of the actual expenditures for ~~regular, contract, and~~
17 ~~associate~~ faculty and staff development for the preceding year.

18 SEC. 4. Section 87415 of the Education Code is amended to
19 read:

20 87415. The following general provisions shall apply
21 irrespective of the date of employment:

22 (a) The order once determined by lot shall be permanent, and
23 shall be entered on the permanent records of the community college
24 district.

25 (b) Records showing date of employment, whether kept by the
26 community college district or by the county, shall be accessible,
27 on demand, to any academic employee of the district or to his or
28 her designated representative.

29 (c) In the absence of records as to any of the matters referred
30 to in the two preceding sections, the governing board of the
31 community college district, in accordance with evidence presented,
32 shall determine the order of employment after giving employees
33 a reasonable opportunity to present this evidence.

34 (d) The governing board of every community college district
35 shall establish the order of employment of all ~~regular, contract,~~
36 ~~and associate~~ employees of the district in the manner prescribed
37 by Sections 87400 to 87424, inclusive, and shall keep a roster of
38 the order of employment as a public record.

39 (e) Whether or not a roster is kept in other community college
40 districts, the order of employment in all community college

1 districts, when required, shall be determined as prescribed by
2 Sections 87400 to 87424, inclusive.

3 (f) The governing board of a community college district shall
4 have power, and it shall be its duty, to correct any errors discovered
5 from time to time in its records showing the order of employment.

6 SEC. 5. Section 87424 of the Education Code is amended to
7 read:

8 87424. (a) ~~If a regular, contract, or associate~~ *the* employee
9 from a community college district within the state who serves as
10 an exchange instructor outside of the state and the governing board
11 regularly employing him or her so agree, the district may pay his
12 or her regular salary, making all deductions provided by law for
13 retirement purposes, during the period of the exchange teaching.
14 In this situation, the community college district shall not pay the
15 salary of the exchange employee from outside of the state, serving
16 the district in exchange for its regular instructor.

17 (b) ~~If a regular, contract, or associate~~ *an* employee from a
18 community college district within this state serving as an exchange
19 instructor outside of the state, to whom the governing board of
20 that district is paying the regular salary of that instructor as herein
21 provided, is compelled to absent himself or herself from his or her
22 duties because of injury, illness, or quarantine, the governing board
23 of the community college district within this state may pay the
24 substitute employed to take the place of that instructor and shall
25 deduct the amount paid to the substitute from the compensation
26 of the employee.

27 SEC. 6. Section 87482.4 of the Education Code is repealed.

28 SEC. 7. Section 87482.5 of the Education Code is amended to
29 read:

30 87482.5. (a) Notwithstanding any other law, a person who is
31 employed to teach adult or community college classes for not more
32 than 67 percent of the hours per week considered a full-time
33 assignment for regular employees having comparable duties shall
34 be classified as an associate employee, and shall not become a
35 contract employee under Section 87604. If the provisions of this
36 section are in conflict with the terms of a collective bargaining
37 agreement in effect on or before January 1, 2009, the provisions
38 of this section shall govern the employees subject to that agreement
39 upon the expiration of the agreement.

1 (b) Service as a substitute on a day-to-day basis by persons
2 employed under this section shall not be used for purposes of
3 calculating eligibility for contract or regular status.

4 (c) (1) Service in professional ancillary activities by persons
5 employed under this section, including, but not necessarily limited
6 to, governance, staff development, grant writing, and advising
7 student organizations, shall not be used for purposes of calculating
8 eligibility for contract or regular status unless otherwise provided
9 for in a collective bargaining agreement applicable to a person
10 employed under this section.

11 (2) This subdivision may not be construed to affect the
12 requirements of subdivision (d) of Section 84362.

13 SEC. 8. Section 87482.6 of the Education Code is amended to
14 read:

15 87482.6. (a) Until the provisions of Section 84750.5 regarding
16 program-based funding are implemented by a standard adopted
17 by the board of governors that establishes the appropriate
18 percentage of hours of credit instruction that should be taught by
19 ~~regular or contract~~ *full-time* instructors, the Legislature wishes to
20 recognize and make efforts to address longstanding policy of the
21 board of governors that at least 75 percent of the hours of credit
22 instruction in the California Community Colleges, as a system,
23 should be taught by ~~regular or contract~~ *full-time* instructors. To
24 this end, community college districts that have less than 75 percent
25 of their hours of credit instruction taught by ~~regular or contract~~
26 *full-time* instructors shall apply a portion of the program
27 improvement allocation received pursuant to Section 84755 as
28 follows:

29 (1) Community college districts that, in the prior fiscal year,
30 had between 67 percent and 75 percent of their hours of credit
31 instruction taught by ~~regular or contract~~ *full-time* instructors shall
32 apply up to 33 percent of their program improvement allocation
33 as necessary to reach the 75 percent standard. If a district in this
34 category chooses instead not to improve its percentage, the board
35 of governors shall withhold 33 percent of the district's program
36 improvement allocation.

37 (2) Community college districts that, in the prior fiscal year,
38 had less than 67 percent of their hours of credit instruction taught
39 by ~~regular or contract~~ *full-time* instructors shall apply up to 40
40 percent of their program improvement allocation as necessary to

1 reach the 75 percent standard. If a district in this category chooses
2 instead not to improve its percentage, the board of governors shall
3 withhold 40 percent of the district's program improvement
4 allocation.

5 (3) Community college districts that maintain 75 percent or
6 more of their hours of credit instruction taught by ~~regular or~~
7 ~~contract full-time~~ instructors shall otherwise be free to use their
8 program improvement allocation for any of the purposes specified
9 in Section 84755.

10 (b) The board of governors shall adopt regulations for the
11 effective administration of this section. Unless and until amended
12 by the board of governors, the regulations shall provide as follows:

13 (1) In computing the percentage of hours of credit instruction
14 taught by ~~regular or contract full-time~~ instructors, the hours of
15 overload teaching by ~~regular or contract full-time~~ instructors shall
16 be excluded from both the total hours of credit instruction taught
17 by ~~regular, contract, full-time~~ or associate instructors and the total
18 hours of instruction taught by ~~regular and contract full-time~~
19 instructors.

20 (2) (A) The chancellor shall compute and report to each
21 community college district the number of ~~regular and contract~~
22 ~~faculty full-time faculty~~ to be secured through the use of the
23 prescribed portion of program improvement revenue allocated to
24 each district. This computation shall be made by dividing the
25 applicable portion of program improvement revenue (0 percent,
26 33 percent, or 40 percent of the program improvement allocation),
27 by the statewide average "replacement cost" (a figure which
28 represents the statewide average faculty salary plus benefits, minus
29 the statewide average hourly rate of compensation for associate
30 instructors times the statewide average full-time teaching load).
31 If the quotient is not a whole number, then the quotient shall be
32 rounded down to the nearest whole number. If this quotient, once
33 applied, will result in the district exceeding the 75 percent standard,
34 the chancellor shall further reduce the quotient to a whole number
35 that will leave the district as close as possible to, but in excess of,
36 the 75 percent standard.

37 (B) By March 15 of each year, the chancellor shall report to
38 each community college district an estimate of the number of
39 ~~regular and contract full-time~~ faculty to be secured based upon the
40 appropriation of revenues contained in the annual Budget Bill.

(3) On or before December 31, 1991, the chancellor shall determine the extent to which each community college district, by September 30, 1991, has hired the number of ~~regular and contract~~ *full-time* faculty determined pursuant to paragraph (3) for the 1989–90 and 1990–91 fiscal years. To the extent that the cumulative number of ~~regular and contract~~ *full-time* faculty have not been retained, the chancellor shall reduce the community college district’s base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of ~~regular and contract~~ *full-time* faculty.

SEC. 9. Section 87482.8 of the Education Code is amended to read:

87482.8. Whenever possible:

(a) Associate faculty should be informed of assignments at least six weeks in advance.

(b) Associate faculty should be paid for the first week of an assignment when class is cancelled less than two weeks before the beginning of a semester. If a class meets more than once per week, associate faculty should be paid for all classes that were scheduled for that week.

(c) The names of associate faculty should be listed in the schedule of classes rather than just described as “staff.”

(d) Associate faculty should be considered to be an integral part of their departments and given all the rights normally afforded to full-time faculty in the areas of book selection, participation in department activities, and the use of college resources, including, but not necessarily limited to, telephones, copy machines, supplies, office space, mail boxes, clerical staff, library, and professional development.

SEC. 10. Section 87482.9 of the Education Code is amended to read:

87482.9. This section applies only to associate faculty within the meaning of Section 87482.5. The issue of earning and retaining of annual reappointment rights shall be a mandatory subject of negotiation with respect to the collective bargaining process relating to any new or successor contract between community college districts and associate faculty occurring on or after January 1, 2002.

SEC. 11. Section 87601 of the Education Code is amended to read:

87601. For the purposes of this article:

(a) “Academic year” means that period between the first day of a fall semester or quarter and the last day of the following spring semester or quarter, excluding any intersession term that has been excluded pursuant to an applicable collective bargaining agreement.

(b) “Associate employee” means an employee of a district who is employed in accordance with Section 87604.

(c) “Contract employee” means an employee of a district who is employed on the basis of a contract in accordance with Section 87605, subdivision (b) of Section 87608, or subdivision (b) of Section 87608.5.

(d) “District” means a community college district.

(e) “Positions requiring certification qualifications” are those positions which provide the services for which certifications have been established in this code.

(f) “Regular employee” means an employee of a district who is employed in accordance with subdivision (c) of Section 87608, subdivision (c) of Section 87608.5, or Section 87609.

SEC. 12. Section 87604 of the Education Code is amended to read:

87604. The governing board of a community college district shall employ each academic employee as a contract employee, regular employee, or associate employee.

SEC. 13. The heading of Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of Division 7 of Title 3 of the Education Code is amended to read:

Article 9. Community College Associate Faculty Health
Insurance Program

SEC. 14. Section 87860 of the Education Code is amended to read:

87860. It is the intent of the Legislature that community college associate faculty and their eligible dependents have continuous access to health insurance benefits.

SEC. 15. Section 87861 of the Education Code is amended to read:

87861. For the purposes of this article:

1 (a) "Associate faculty" refers to any faculty member whose
2 teaching assignment equals or exceeds 40 percent of the cumulative
3 equivalent of a minimum full-time teaching assignment.

4 (b) "Health insurance benefits" include medical benefits, but
5 do not include vision or dental benefits.

6 (c) The changes made to subdivision (b) during the 1999 portion
7 of the 1999–2000 Regular Session of the Legislature shall be
8 operative in any fiscal year only if funds are appropriated for
9 purposes of those changes in the annual Budget Act or in another
10 measure. If the amount appropriated in the annual Budget Act or
11 in another measure for purposes of this section is insufficient to
12 fully fund those changes for the fiscal year, the chancellor shall
13 prorate the funds among the community college districts affected
14 by this section.

15 SEC. 16. Section 87862 of the Education Code is amended to
16 read:

17 87862. The governing board of a community college district
18 may provide a program of health insurance for associate faculty
19 and their dependents.

20 SEC. 17. Section 87863 of the Education Code is amended to
21 read:

22 87863. (a) An associate faculty member and his or her eligible
23 dependents are eligible to participate in the program established
24 pursuant to this article.

25 (b) The changes made to subdivision (a) during the 1999 portion
26 of the 1999–2000 Regular Session of the Legislature shall be
27 operative in any fiscal year only if funds are appropriated for
28 purposes of those changes in the annual Budget Act or in another
29 measure. If the amount appropriated in the annual Budget Act or
30 in another measure for purposes of this section is insufficient to
31 fully fund those changes for the fiscal year, the chancellor shall
32 prorate the funds among the community college districts affected
33 by this section.

34 (c) Any changes made pursuant to this section to the Community
35 College Associate Faculty Health Insurance Program shall not
36 affect any associate health insurance program in effect on January
37 1, 2000.

38 SEC. 18. Section 87864 of the Education Code is amended to
39 read:

1 87864. No associate faculty member or dependents whose
2 premiums for health insurance are paid by an employer other than
3 a community college district is eligible to participate in the program
4 established pursuant to this article.

5 SEC. 19. Section 87867 of the Education Code is amended to
6 read:

7 87867. By June 15 of each year, the Chancellor of the
8 California Community Colleges shall apportion to each community
9 college district that establishes a program pursuant to this article
10 an amount that equals up to one-half of the total cost of the
11 individual enrollment premiums required to be paid for the health
12 insurance coverage of participating associate faculty and their
13 dependents in the district. The chancellor shall distribute funds
14 that have been appropriated specifically for this purpose
15 proportionally based on each community college district's total
16 costs for premiums for those community college districts that
17 submit verification of the costs of premiums for eligible employees
18 for a fiscal year, but in no event shall the allocation to any
19 community college district exceed one-half of the cost of the
20 verified premiums. If funds appropriated for this purpose exceed
21 one-half of the verified cost of premiums for all participating
22 community college districts statewide, the balance that exceeds
23 that amount shall revert to the General Fund annually.

24 SEC. 20. The heading of Article 10 (commencing with Section
25 87880) of Chapter 3 of Part 51 of Division 7 of Title 3 of the
26 Education Code is amended to read:

27
28 Article 10. Community College Associate Faculty Office Hours
29 Program
30

31 SEC. 21. Section 87880 of the Education Code is amended to
32 read:

33 87880. The Legislature finds and declares that community
34 college associate faculty are required to fulfill the same teaching
35 responsibilities as ~~regular and contract~~ *full-time* faculty although
36 students have little or no access to associate faculty members
37 outside of the classroom. It is the intent of the Legislature that
38 students have the same opportunity for academic assistance and
39 guidance without regard to whether a course at a community
40 college is taught by a ~~regular, contract,~~ *full-time* or associate faculty

1 member. It is the further intent of the Legislature that community
2 college associate faculty teaching a minimum number of courses
3 be compensated for providing academic counseling and assistance
4 to students outside of the classroom.

5 SEC. 22. Section 87881 of the Education Code is amended to
6 read:

7 87881. There is hereby established the Community College
8 Associate Faculty Office Hours Program for the purpose of
9 providing community college students equal access to academic
10 advice and assistance and to encourage community college districts
11 to provide opportunities by compensating associate faculty who
12 hold office hours related to their teaching load.

13 SEC. 23. Section 87882 of the Education Code is amended to
14 read:

15 87882. For purposes of this article, “associate faculty” means
16 any person who is employed to teach for not more than the hours
17 per week described in Section 87482.5.

18 SEC. 24. Section 87883 of the Education Code is amended to
19 read:

20 87883. (a) The governing board of a community college district
21 may provide compensation for office hours to associate faculty.

22 (b) The compensation paid to associate faculty under this article
23 shall equal at least one paid office hour for every two classes or
24 more taught each week or 40 percent of a full-time load as defined
25 by the community college district.

26 (c) Nothing in this section precludes compensation under this
27 program for paid office time for each 20 percent of a full-time
28 load, or fraction thereof, as defined by the community college
29 district.

30 (d) The change made to subdivision (c) during the 1999 portion
31 of the 1999–2000 Regular Session of the Legislature shall be
32 operative in any fiscal year only if funds are appropriated for
33 purposes of that change in the annual Budget Act or in another
34 measure. If the amount appropriated in the annual Budget Act or
35 in another measure for purposes of this section is insufficient to
36 fully fund that change for the fiscal year, the chancellor shall
37 prorate the funds among the community college districts affected
38 by this section.

39 SEC. 25. Section 87884 of the Education Code is amended to
40 read:

1 87884. (a) The governing board of each community college
2 district that establishes a program pursuant to this article shall
3 negotiate with the exclusive bargaining representative, or in
4 instances where there is no bargaining unit shall meet and confer
5 with the faculty, to establish a program to provide associate faculty
6 office hours.

7 (b) Any hours negotiated under this program shall not be applied
8 toward the maximum percentage-of-hours limitation for associate
9 faculty as specified in Section 87882. These hours shall not be
10 counted towards the hours per week of teaching adult or community
11 college classes for purposes of acquiring eligibility for tenure or
12 for purposes of fulfilling any probationary hour requirements.

13 (c) On or before June 1 of each year, each community college
14 district participating in the program shall send a verification to the
15 Chancellor of the California Community Colleges specifying the
16 total costs of the compensation paid for office hours of associate
17 faculty participating in the program.

18 (d) Any changes made by this section to the Community College
19 Associate Faculty Office Hours Program shall not affect any
20 associate faculty office hours program in effect on January 1, 2000.

21 SEC. 26. Section 87885 of the Education Code is amended to
22 read:

23 87885. (a) The Associate Faculty Office Hours Program Fund
24 is hereby established in the State Treasury as a continuation of the
25 Part-Time Faculty Office Hours Program Fund established by this
26 section.

27 (b) On or before June 15 of each year, the Chancellor of the
28 California Community Colleges shall apportion to each community
29 college district that establishes a program pursuant to this article
30 an amount of up to 50 percent of the total costs of compensation
31 paid for office hours of associate faculty, as defined in Section
32 87882. The chancellor shall distribute funds that are appropriated
33 in the annual Budget Act specifically for this purpose
34 proportionally based on each community college district's total
35 costs for office hours of associate faculty pursuant to the
36 verification submitted by the community college district in
37 accordance with subdivision (c) of Section 87884 for that fiscal
38 year. In no event, however, shall the allocation to any district in a
39 fiscal year exceed 50 percent of the total costs of the compensation
40 paid for office hours of associate faculty pursuant to this article.

- 1 (c) It is the intent of the Legislature that funding for the purposes
- 2 of this article be included in the annual Budget Act.

O